

1 number of households to be in. Right?

2 A Dealing with a plan that the NFL
3 Network had is not something that would have
4 been in the scope of my responsibilities.

5 Q It wouldn't have been relevant to
6 your work whether the NFL Network was meeting
7 its subscriber targets?

8 A We would have discussed potential
9 goals at any particular point. But, more
10 importantly, it would be how we calculate our
11 ratings estimates that the advertisers would
12 be most interested in.

13 Q In fact, you sell advertising
14 based on a projection of how many households
15 you're going to be in, don't you?

16 A We sell advertising that's based,
17 in part, by that. It's also based, in part,
18 by the popularity of the program.

19 Q The number of households is one
20 aspect of that. Correct?

21 A Yes, it is.

22 Q I'd like to show you, if I may,

1 what has already been marked and entered into
2 evidence as Comcast Exhibit 307.

3 MR. PEREZ-MARQUES: If I may
4 distribute copies, Your Honor?

5 JUDGE SIPPEL: It's already in?

6 MR. PEREZ-MARQUES: It's already
7 in.

8 JUDGE SIPPEL: This is cross
9 examination group from yesterday?

10 MR. PEREZ-MARQUES: Yes. It was a
11 Hawkins exhibit, Your Honor.

12 JUDGE SIPPEL: Well, I think we
13 can use -- we probably have that -- yes, you
14 can certainly give that to the witness, but I
15 think we've got a copy here.

16 THE WITNESS: Thank you.

17 JUDGE SIPPEL: What's the number
18 of the exhibit?

19 MR. PEREZ-MARQUES: 307, Your
20 Honor.

21 JUDGE SIPPEL: Thank you. This is
22 just an extra of Comcast 307, which has

1 already been marked and received. All right.

2 You may proceed, sir.

3 BY MR. PEREZ-MARQUES:

4 Q Mr. Furman, this is an NFL Network
5 update presentation, and I'd like to direct
6 you to page 4 of the presentation, which ends
7 in Bates number ending in 670. Are you there
8 at the slide titled, "Subscriber Outlook"?

9 A Yes.

10 Q Do you see on that slide the
11 estimate for March 2007 has Comcast at [REDACTED]
12 [REDACTED] subscribers, Time Warner at [REDACTED]
13 Charter at [REDACTED] Cox at [REDACTED]
14 Cablevision at [REDACTED] Insight at [REDACTED]
15 Mediacom at [REDACTED] and then a number for all
16 other distributors. Do you see where I'm
17 reading?

18 A I do.

19 Q And you see that Versus original
20 plan, the total cable has a [REDACTED]

21 [REDACTED] Is that correct?

22 A According to this, yes.

1 Q And, in fact, is it consistent
2 with your memory, that in 2006 the NFL Network
3 was falling short of its subscriber
4 projections?

5 A I don't have the -- I don't have a
6 recollection of what our advertiser-related
7 estimates would have been. This is a document
8 that is not something that I deal with.

9 Q Is it consistent with your
10 recollection, though, that in 2006 the NFL
11 Network was falling short of projections for
12 subscribers?

13 A I can neither say yes or not to
14 that, because I'm not aware what the
15 projections were on this level.

16 Q You're not -- you don't have a
17 recollection of whether the NFL Network was on
18 target, or below target in 2006?

19 A I do not.

20 Q Okay. Are you aware that the NFL
21 Network did not have a deal with Time Warner?

22 A I am aware of that, yes.

1 Q And are you aware that they didn't
2 have a deal to be carried on Charter?

3 A Charter, I'm not aware of.

4 Q And Cablevision?

5 A Cablevision I am aware of, yes.

6 Q And Mediacom?

7 A I wouldn't know.

8 Q But you were aware, generally,
9 that there were significant distributors who
10 were not carrying the NFL Network.

11 A Yes.

12 Q Okay. And, naturally, that was
13 an issue for your advertising revenue, was it
14 not?

15 A It was part of the fact that the
16 subscribers of those cable networks were not
17 included in our total would have been, because
18 more is better. There's no question about
19 having less of a footprint would always give
20 us more difficulty, so we were looking for the
21 largest footprint possible. And if that was
22 part of it, it was done in estimates that I

1 was not aware of.

2 Q Signing a new deal with Time
3 Warner, Charter, Cablevision, or Mediacom
4 would help your advertising revenue, wouldn't
5 it?

6 A Any additional distribution would
7 help our advertising revenue, yes.

8 Q So, it's not specific to Comcast.
9 It's any new deal would put you in a better
10 competitive position.

11 A Increases in distribution would
12 put us in a better position.

13 Q Do you know how many subscribers
14 you could gain if you signed deals with Time
15 Warner, Charter, Cablevision, and Mediacom?

16 A I don't know.

17 Q Okay. Do you know whether it
18 would put you above this 50 million subscriber
19 threshold that you've talked about?

20 A I would have to get that
21 information.

22 Q You've never considered that.

1 A I have heard numbers, but I have
2 no idea if they're valid, or not.

3 Q You never had -- withdrawn.

4 Now, in fact, in 2006, you had
5 significant advertisers that were already
6 complaining about the poor distribution of the
7 NFL Network. Correct?

8 A I would imagine that advertisers
9 constantly discuss and challenge us on
10 distribution.

11 Q In fact, you had significant
12 advertisers that wanted out of their
13 commitments, because of the weak distribution
14 in 2006. Isn't that right?

15 A I wouldn't know which significant
16 advertisers you were speaking of.

17 Q Do you recall any significant
18 advertisers who wanted out of their
19 commitments in 2006?

20 A I would have to go back and get a
21 list of our advertisers in 2006.

22 Q And, during that time, in the fall

1 of '06, Comcast had not yet repositioned the
2 NFL Network. Isn't that right?

3 A I believe that's correct, yes.

4 Q It's your testimony that before
5 Comcast ever repositioned the NFL Network, the
6 NFL Network was already suffering advertising
7 problems because of distribution. Isn't that
8 correct?

9 MR. SCHMIDT: Objection.

10 JUDGE SIPPEL: What's the nature
11 of the objection?

12 MR. SCHMIDT: I just don't think
13 he stated his testimony correctly.

14 BY MR. PEREZ-MARQUES:

15 Q Isn't it a fact that before
16 Comcast tiered the NFL Network, the NFL
17 Network was already suffering advertising
18 problems because of distribution?

19 A I don't know if there's an ability
20 to answer that with a yes, or a no answer.
21 Each advertiser has specific needs, and
22 discussions with us. I don't know if there's

1 a list of specific ones that would have said
2 it's all about distribution. Advertisers
3 challenge any network all the time to provide
4 different things. In our case, distribution
5 is one of them. Different ways of integrating
6 with programs, and how they match their
7 products is another. So, I would have to go
8 back and be able to take a look, and
9 understand if there were specific distribution
10 issues.

11 Q It's not in your experience one
12 factor in isolation that drives an
13 advertiser's decision?

14 A I believe there are some that are
15 weighted more heavily, yes.

16 Q But not one factor in isolation.

17 A I believe there are some that are
18 absolutely weighted more heavily, but there is
19 not just one factor.

20 Q And, my question was whether
21 before Comcast tiered the NFL Network, the NFL
22 Network was already suffering advertising-

1 related problems because of poor distribution.

2 I don't believe you've answered that question.

3 A There may have been.

4 Q There may have been. You don't
5 recall one way or the other.

6 A I don't recall, specifically, one
7 way or the other.

8 MR. PEREZ-MARQUES: Your Honor,
9 I'd like to mark for identification Comcast
10 Exhibit 506.

11 JUDGE SIPPEL: Is this a new one?

12 MR. PEREZ-MARQUES: It is a new
13 one.

14 JUDGE SIPPEL: Thank you. 506 is
15 -- this will be an email from Adam Shaw to Ron
16 Furman and Arturo Marques dated November 21,
17 2006. And that's identified as Comcast
18 Exhibit 506.

19 (WHEREUPON, THE DOCUMENT REFERRED
20 TO WAS MARKED AS COMCAST EXHIBIT
21 506 FOR IDENTIFICATION.)

22 MR. PEREZ-MARQUES: Your Honor, I

1 believe we are short one copy, if I could hand
2 one to the witness.

3 JUDGE SIPPEL: Well, do you have
4 an extra one? That's Exhibit Comcast 406.
5 Just hand it to the witness.

6 MR. PEREZ-MARQUES: 506.

7 JUDGE SIPPEL: 506, I'm sorry.

8 BY MR. PEREZ-MARQUES:

9 Q Mr. Furman, do you recognize this
10 document as a series of emails between
11 yourself and Adam Shaw, including Arturo
12 Marques, from November 21st and November 20th,
13 2006?

14 A Yes.

15 Q And, reading from the bottom with
16 the first email, you are writing an email to
17 Mr. Marques, within which you state, "We have
18 significant advertisers that want out of their
19 commitments based on weak distribution. Need
20 information to get them off the bandwagon."
21 Do you see that?

22 A I do.

1 Q Does that refresh your
2 recollection that before Comcast tiered, you
3 already had advertisers that wanted out of
4 their commitments based on weak distribution?

5 A What it does is, it reminds me how
6 I was reaching out to Mr. Marques to get him
7 to give us some clarity as to what the
8 difference was between these two pieces here,
9 Digital 2, and Digital 1. And commenting to
10 him in a nice way that we do, we need this
11 information, so get it to us quickly.

12 Q And the reason you needed the
13 information was because you had significant
14 advertisers that wanted out of their
15 commitments. Is that correct?

16 A I don't recall if there were any
17 advertisers connected with that comment, or
18 not.

19 Q You agree, though, that this is
20 what you were telling Mr. Marques here, do you
21 not?

22 A Yes.

1 Q And you think that you might have
2 -- there's no reason to think you would have
3 been misleading Mr. Marques, is there?

4 A No, I wouldn't have, but I would
5 have thought that if there were impending
6 issues of immediacy, I would have listed the
7 advertiser.

8 JUDGE SIPPEL: Can we have an
9 identification as to who Mr. Marques is?

10 BY MR. PEREZ-MARQUES:

11 Q Mr. Furman, could you explain?
12 Who is he?

13 A At the time, Mr. Marques was
14 responsible for our affiliate relationships at
15 the NFL, so he dealt with the different cable
16 companies and other programming companies that
17 carry the NFL signal. So, he would deal with
18 Comcast and Charter, if they were on, some of
19 the different organizations. Cox, if there
20 were to be coming, DirecTV, and so on.

21 JUDGE SIPPEL: And what was his
22 title? Do you know?

1 THE WITNESS: I don't recall.

2 JUDGE SIPPEL: Was he equal with
3 you, above you, below you, or what?

4 THE WITNESS: A different
5 department, Your Honor, so I don't know how -

6 JUDGE SIPPEL: Sounds like the
7 government.

8 (Laughter.)

9 THE WITNESS: Feels that way
10 sometimes, too.

11 JUDGE SIPPEL: Be careful. I
12 don't want to get you into -- I don't want to
13 take you there.

14 THE WITNESS: Yes. That's a
15 separate conversation.

16 BY MR. PEREZ-MARQUES:

17 Q And, for completeness, can you
18 also identify who Mr. Shaw is?

19 A Mr. Shaw, at this time, I believe
20 was senior to Art Marques, and also in our
21 affiliate relations area.

22 Q They were the distribution team.

1 Correct?

2 A They dealt with our folks on the
3 distribution side. I don't know if they were
4 the only folks.

5 Q Their area of responsibility was
6 getting the NFL Network distributed. Isn't
7 that right?

8 A I believe so, yes.

9 Q And what you were telling them was
10 that you needed information about the
11 distribution, because you had significant
12 advertisers that were complaining about the
13 distribution. Isn't that right?

14 A Yes.

15 Q Now, at this time, Comcast was
16 carrying the NFL Network broadly, was it not?

17 A Yes.

18 Q It was carrying the NFL Network in
19 compliance with its contract?

20 A I wouldn't know. I'm not one to
21 have a copy of the contract.

22 Q And, at this time, you did not

1 have deals with Time Warner and Cablevision.

2 Isn't that right?

3 A Not to my knowledge.

4 Q Have you ever had deals with Time
5 Warner and Cablevision?

6 A I wouldn't be able to answer that.
7 I don't know.

8 Q Since you've been there, have
9 there ever been deals with Time Warner or
10 Cablevision?

11 A Not that I'm aware of.

12 Q And you refer here to a
13 "bandwagon". What does that refer to?

14 A It refers to a comment previously
15 that we were talking about as distribution
16 issues became public, and very evident in the
17 business, trade press, and other press, that
18 we wanted to have -- or, at least, I wanted to
19 have information as to the different segments
20 of what this agreement would have, so I could
21 best be able to understand it, and relate that
22 to the sales organization, and anyone who may

1 have asked me.

2 Q The bandwagon is a bandwagon of
3 advertisers. Is that right?

4 A I don't recall if it was
5 advertisers, or if it was advertising agents.

6 Q But it was one form or another of
7 people who buy the advertising from NFL
8 Network. Is that right?

9 A I don't -- it could, or it
10 couldn't be. It could just be terminology for
11 a positioning point and understanding the
12 ability to pass information to folks.

13 Q I'd like to refer you back to --
14 the group you work for, is that the Media
15 Sales Group?

16 A It's one segment of my
17 responsibilities, yes.

18 Q And does the Media Sales Group
19 periodically have off-site meetings?

20 A They do.

21 Q And what happens as those off-site
22 meetings?

1 A As you find in any meeting
2 regarding past performance, strategy for
3 future performance, reviews of ongoing
4 business situations, and general exchange of
5 business ideas and concepts.

6 Q And what's your role in those
7 meetings?

8 A It varies, depending upon how that
9 meeting is structured. I may act as an
10 administrator, and someone to help guide
11 people to putting together different aspects
12 of it. I, generally, try to allow senior
13 staff to participate in it, and run certain
14 parts of it, so they have the ability to
15 present and engage with the information.

16 Q What are corporate sponsors at the
17 NFL? What does that term refer to?

18 A When we talk about corporate
19 sponsors, is the NFL has certain companies
20 that are official in nature. They have the
21 ability to use the NFL trademark shield, so
22 you might see them as Pepsi, the official soft

1 drink of the NFL, things of that nature; VISA,
2 the official credit card of the NFL, and so
3 on. There are a number of different ways we
4 refer to them, but from the Media Group,
5 they're referred to as the corporate sponsors.

6 Q Okay. I'll use the term corporate
7 sponsors. Now, the corporate sponsors, those
8 are based on deals struck between a company
9 and the National Football League. Is that
10 correct?

11 A That is correct, yes.

12 Q And, as part of that deal, these
13 companies get the right to use National
14 Football League trademarks in their own
15 advertising. That's correct?

16 A Yes.

17 Q So, for instance, as you said,
18 Pepsi can say they are the official soft drink
19 of NFL Football, and put on the NFL logo.

20 A Yes.

21 Q Those are expensive deals, aren't
22 they?

1 A They vary in levels of investment.

2 Q What's the range of investment?

3 A They can be, again, without -- see
4 if I can recall - anywhere from approximately
5 [REDACTED] to approximately [REDACTED] per
6 year.

7 Q Now, as part of those corporate
8 sponsorship deals, you frequently require the
9 companies to purchase advertising on the NFL
10 Network. Isn't that right?

11 A Yes.

12 Q Okay. And that is an instance in
13 which the NFL, as part of giving something it
14 controls, the trademarks, is requiring a
15 benefit to be paid to NFL Enterprises. Isn't
16 that right?

17 A Yes.

18 Q How much of your advertising
19 revenue comes from corporate sponsors?

20 A It varies by year.

21 Q How much money did you make from
22 corporate sponsors last year advertising for

1 the NFL Network?

2 A I would have to go back and check
3 my records.

4 Q What would be your estimate?

5 A I would have to go back and check.

6 Q The advantage that the NFL Network
7 gets because of this relationship with the
8 NFL, that makes it easier to attract
9 advertising dollars, doesn't it?

10 A I'm not sure I understand your
11 question.

12 Q Advertisers are incentivized to
13 buy advertising on the NFL Network in order to
14 get valuable NFL trademarks.

15 A If I understand what you're
16 saying, is that the corporate sponsors, as
17 part of an overall NFL investment use the NFL
18 Network as one part of their communication
19 strategy. The NFL has a variety of different
20 assets, which reach out to their fans and
21 customers in a very broad way, and, generally,
22 the corporate sponsors look to engage across

1 a number of those. The NFL Network is
2 absolutely a part of that, for them to be able
3 to access, yes.

4 Q Well, they're, in fact, required
5 to advertise on the NFL Network as part of
6 their corporate sponsorship deals. Isn't that
7 right?

8 A It is something that we offer to
9 them that is built into many of the deals,
10 yes.

11 Q Now, when we started this
12 afternoon, we were talking about some of the
13 other reasons, besides distribution, that the
14 NFL Network has had advertising problems.
15 Now, is turmoil within specific companies part
16 of the reason that the NFL Network has had
17 advertising problems?

18 A Could you -- just when you say
19 "turmoil", I'm trying to understand what -

20 Q Internal issues within a company,
21 problems specific to one company.

22 A Yes.

1 Q What are some examples where you
2 have had advertising problems because of
3 issues that one company was having?

4 A The recent 2009 [REDACTED]
5 industry sales numbers for [REDACTED] who happens to
6 be a corporate sponsor, and how they're coming
7 to grips with that, and dealing with the
8 issues that confront them.

9 Q Any other examples?

10 A I would imagine we've had
11 discussions with a company like [REDACTED] and
12 their current business environment, what
13 they're doing to overcome that. And that also
14 affects what they may be doing.

15 Q Now, you don't blame Comcast for
16 advertising problems that the NFL Network has
17 had because of internal problems at
18 advertisers, do you?

19 A I don't connect the two at all.

20 Q Okay. Do you recall a time when
21 you felt that [REDACTED] was in turmoil
22 internally?

1 A [REDACTED] has been challenged a
2 number of times. And, yes, I do remember
3 [REDACTED] having business issues that they were
4 overcoming.

5 Q There was a time when [REDACTED] was
6 under discussion as a target to be taken over,
7 or reorganized. Isn't that right?

8 A Yes.

9 Q That was in 2007?

10 A I believe so, yes.

11 Q And you were concerned, weren't
12 you, that that internal turmoil would impact
13 the advertising revenue of the NFL Network.

14 A It was one of the things that we
15 think about with any client, yes.

16 Q And, in fact, did you lose
17 advertising revenue because of that internal
18 turmoil?

19 A No.

20 Q Despite what you viewed as the
21 turmoil, you continued pushing for increases
22 in the value of the deals with [REDACTED] did

1 you not?

2 A I'd have to answer that with a
3 yes.

4 MR. PEREZ-MARQUES: Your Honor,
5 I'd like to mark for identification Comcast
6 Exhibit 508.

7 JUDGE SIPPEL: This is a new one?

8 MR. PEREZ-MARQUES: Yes, Your
9 Honor.

10 JUDGE SIPPEL: 508, let's see what
11 it looks like. 508 is a two-page, June 5,
12 2007 email from Kim Williams to Mr. Furman,
13 re: Chicken Soup Deliver." That will be
14 marked for identification at this time.

15 (WHEREUPON, THE DOCUMENT REFERRED
16 TO WAS MARKED AS EXHIBIT COMCAST
17 508 FOR IDENTIFICATION.)
18 BY MR. PEREZ-MARQUES:

19 Q Mr. Furman, do you recognize this
20 as an email chain between yourself and Kim
21 Williams on June 5, 2007?

22 A Yes.

1 Q Who is Kim Williams?

2 A Kim Williams is the Chief
3 Operating Officer of the NFL Network.

4 Q Do you report directly to Ms.
5 Williams?

6 A I do not currently.

7 Q Where is she in the organization
8 relative to you?

9 A She is senior to me at the NFL
10 Network.

11 Q Now, in this email, the second one
12 down, you're saying -- well, the second one
13 from the bottom, she is asking you, "How is
14 travels?" And you respond, "Issues, everyone
15 has issues. [REDACTED] in turmoil internally,
16 pushing the renewal at significant dollars
17 before they are sold or reorg'd." Did I read
18 that correctly?

19 A Correct.

20 Q And what does that mean, "pushing
21 the renewal at significant dollars before they
22 are sold or reorg'd"?